



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

32

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/789,270      | 02/28/2004  | Edward Mitchell      |                     | 9387             |

7590

12/02/2004

Brian C. Kelly  
Brian C. Kelly Ltd.  
555 South Center Street  
Reno, NV 89501

|          |
|----------|
| EXAMINER |
|----------|

RICCI, JOHN A

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3714

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,270

Applicant(s)

MITCHELL, EDWARD

Examiner

John Ricci

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

Application/Control Number:  
10/789,270  
Art Unit: 3714

Page 2

The drawings are objected to because Arrow Support 8 (page 2, line 9) is not shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

Application/Control Number:  
10/789,270  
Art Unit: 3714

Page 3

action in the next Office action. The objection to the drawings will not be held in abeyance.

\* \* \* \* \*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 & 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kees 4,593,673.

Kees shows a sling shot including elastic means 38, 39; projectile holding means 40; sight means 52; structural member 14; and arrow rest 70.

Claims 1 & 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Warnke 5,551,412.

Warnke shows a sling shot including elastic means 50; projectile holder 52; sight means 62; structural member 30; and vertical handle 24.

\* \* \* \* \*

Application/Control Number:  
10/789,270  
Art Unit: 3714

Page 4

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warnke in view of King 5,437,260.

Warnke shows the sight as a thin bar 62; it may be difficult to sight accurately with this sight. King shows that a sight may include a bar 61 mounted offset to a structural member 65; this kind of sight would be more accurate than the sight of Warnke. It would have been obvious to one of ordinary skill in the art to use the bar sight of King on the sling shot of Warnke.

Claims 1, 2, & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster 2,625,926 in view of Styles 2,667,863.

Foster shows a sling shot including an elastic band with projectile holding means 24, structural member 11, and shoulder rest 17 releasably attached to the structural member by means of screw 18. However, Foster does not include a sight means. One would recognize that a sight would be desirable to better aim the sling shot. For example, Styles shows that a sling shot may include sight 40. It would have been obvious to one of ordinary skill in the art to provide the sling shot of Foster with such sight means.

Claims 1 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swett 3,415,239 in view of Styles.

Swett shows a sling shot including elastic means 16, 17; projectile holder 14; structural member 10; and rail means 18 of "low friction material" to guide the holder with minimum drag. However, Swett does not include a sight means. One would recognize that a sight would be desirable

Application/Control Number:  
10/789,270  
Art Unit: 3714

Page 6

to better aim the sling shot. For example, Styles shows that a sling shot may include sight 40. It would have been obvious to one of ordinary skill in the art to provide the sling shot of Swett with such sight means.

\* \* \* \* \*

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

\* \* \* \* \*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

\* \* \* \* \*

This letter was prepared by Examiner John Ricci, who can be reached at:

Voice: 571-272-4429

Fax: Use 703-872-9306 for papers to be delivered directly to the mail room, like formal amendments and responses, change of address, power of attorney, petitions.

Application/Control Number:  
10/789,270  
Art Unit: 3714

Page 7


Use 703-783-0439 for papers to be delivered directly to the Examiner, like informal or proposed responses for discussion, or notes in preparation for an interview.

*Response by Fax is encouraged to reduce mail processing time. Please don't send duplicate papers by mail and Fax.*

My supervisor is Derris Banks, 571-272-4419.

PTO main switchboard: 800-786-9199.

Visit our Web site at [www.uspto.gov](http://www.uspto.gov).



**JOHN RICCI  
PRIMARY EXAMINER  
ART UNIT 3714**